REMARKS

In an Office Action mailed August 7, 2009, claims 1-24 of the present application were rejected. Herein, claims 1, 2, 4-9, 11, 13-20, 22, and 24 have been amended and new claim 25 has been added. No new matter has been added. Additionally, claims 3 and 23 have been cancelled without prejudice or disclaimer to the subject matter therein. Applicants respectfully request further examination and reconsideration of the present application.

Applicants would like to thank Examiner King for the courtesies extended to Applicants' representative during the telephone interview conducted on November 3, 2009. During the interview, Applicants' representative explained why it is believed that the claims of the present application are patentable over the prior art of record. In this regard, Applicants note that the arguments presented herein for distinguishing the claims over the prior art references correspond to the comments made during the interview.

Minor amendments to the abstract have been made to correct grammatical and idiomatic errors. No new matter has been added.

Claims 23 and 24 were rejected under 35 U.S.C. 101 as being directed toward non-statutory subject matter. Claim 24 is pending and claim 23 has been cancelled. Applicants have amended claim 24 to recite "a non-transitory computer readable recording medium" in light of the Examiner's suggestion. Applicants respectfully submit that amended claim 24 is directed to statutory subject matter under 35 U.S.C. 101, and, as such, respectfully request that the rejection of claim 24 under 35 U.S.C. 101 be withdrawn.

Claims 23 and 24 were rejected under 35 U.S.C. 112, first paragraph, as not supported by either a process, manufacture and composition of matter, asserted utility or a well-established utility such that one of ordinary skill in the art would not know how to use the claimed invention. Claim 24 is pending and claim 23 has been cancelled. As noted above, claim 24 is directed to statutory subject matter under 35 U,S.C. 101, therefore, Applicants respectfully request the rejection of claim 24 under 35 U.S.C. 112, first paragraph, be withdrawn in light of the above remarks.

Claims 1, 2, 17, 19, 20, 21, and 22 were rejected under 35 U.S.C. 102(e) as being anticipated by Ono (U.S. Patent Application Publication No. 2004/0139020). Applicants respectfully request reconsideration based on the following remarks.

Initially, Applicants note that the subject matter of original claim 3 has been incorporated into independent claims 1, 2, and 22. Original claim 3 was rejected under 35 U.S.C. 103(a) as being unpatentable over Ono in view of Shinzaki et al. (U.S. Patent No. 7,007,298, hereafter "Shinzaki"). Therefore, in order to expedite prosecution of the present application, Applicants respectfully submit that claims 1, 2, 17, 19, 20, 21, and 22 are patentable over any combination of Ono and Shinzaki.

Claim 1 recites, in part, a user judgment unit operable to, if a tag judgment unit judges that a level of match does not satisfy a predetermined condition, receive second identification information and judge whether or not first identification information matches the received second identification information, and a permission unit operable to permit a use of a function if the tag judgment unit judges that the level of match satisfies the predetermined condition, or permit the use of the function if the tag judgment unit judges that the level of match does not satisfy the predetermined condition and the user judgment unit judges that the first identification information matches the received second identification information. Applicants respectfully submit that these features of claim 1 are not disclosed or suggested any combination of Ono and Shinzaki because there is no suggestion or motivation to combine the Ono and Shinzaki references to achieve the above features of claim 1 for the following reasons.

MPEP 2143.01(v) states that if proposed modification to a primary reference by a secondary reference renders the primary reference unsatisfactory for its intended purpose, then there is no suggestion or motivation to combine the references. Applicants respectfully submit that modifying Ono with Shinzaki to achieve the user judgment unit and permission unit as recited in claim 1 would render Ono unsatisfactory for its intended purpose.

Applicants note that on page 12 of the Office Action, the Examiner concedes that Ono fails to disclose or suggest the user judgment unit and the permission unit as recited by original claim 3 (the subject matter of which being incorporated into amended claim 1). On pages 12-14 of the Office Action, Ono is modified by Shinzaki such that the combination of Ono and Shinzaki is alleged to render the user judgment unit and the permission unit obvious.

Applicants note that Ono discloses an authentication apparatus for authenticating a correct user using an IC card and IC tags carried by the user (Abstract). Ono discloses that if only an IC card is used, an incorrect user may steal the IC card and impersonate the correct user to gain access to a system ([0005]). Ono discloses that a password may be used by the system to prevent the incorrect user from obtaining access in the event the IC card is stolen; however, the correct user would have the burden of memorizing the password ([0006]). Therefore, Ono discloses that it is an object of the authentication apparatus of Ono to solve the above problems, i.e. the authentication apparatus of Ono has an **intended purpose** to provide a secure authentication apparatus allowing a correct user to access the system **without using a password** as a password would be a burden to the user ([0007]).

In contrast to Ono, Applicants note that Shinzaki **uses a password** to authenticate a user as a secondary method of authentication in the event the user cannot be authenticated by biometic feature information (FIG. 7). On pages 12-14 of the Office Action, the Examiner relies on this feature of Shinzaki to disclose the user judgment unit and the permission unit as recited by original claim 3. However, by modifying Ono with the password feature of Shinzaki, the combination would render the modified Ono reference unsatisfactory for its intended purpose, i.e., by modifying Ono to authenticate a user with a password, it defeats Ono's intended purpose of not using a password in authentication. Therefore, there can be no suggestion or motivation to modify the Ono reference with the Shinzaki reference to achieve the user judgment unit and the permission unit as recited by original claim 3.

In view of the foregoing, Applicants respectfully submit that claim 1 is patentable over any combination of Ono and Shinzaki.

Regarding claim 2, Applicants note that claim 2 recites, in part, a user judgment unit operable to, if a tag judgment unit judges that a level of match does not satisfy a predetermined condition, receive second identification information and judge whether or not first identification information matches the received second identification information, and a permission unit operable to permit a use of a function if the tag judgment unit judges that the level of match satisfies the predetermined condition, or permit the use of the function if the tag judgment unit judges that the level of match does not satisfy the predetermined condition and the user judgment unit judges that the first identification information matches the received second identification information. Therefore, Applicants respectfully submit that claim 2 is patentable over any combination of Ono and Shinzaki for reasons similar to those discussed above with respect to claim 1.

Further, claims 17 and 19-21 are patentable over Ono based at least on their dependency from claim 2.

Regarding claim 22, Applicants note that claim 22 recites, in part, receiving, if a level of match judging step judges that a level of match does not satisfy a predetermined condition, second identification information and judging whether or not first identification information matches the received second information, and permitting a use of a function if the level of match judging step judges that the level of match satisfies the predetermined condition, or permitting the use of the function if the level of match judging step judges that the level of match does not satisfy the predetermined condition and the identification information judging step judges that the first identification information matches the received second identification information. Therefore, claim 22 is patentable over any combination of Ono and Shinzaki for reasons similar to those discussed above with respect to claim 1.

Claims 3 and 4 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ono in view of Shinzaki. Claim 4 is pending, claim 3 has been cancelled. Applicants respectfully request reconsideration of the rejection based on the following remarks.

Applicants note that claim 4 depends from claim 2; therefore, claim 4 is patentable over any combination of Ono and Shinzaki based at least on it dependency from claim 2.

Additionally, claim 4 recites, in part, that if a tag judgment unit judges that a level of match does not satisfy a predetermined condition, and a user requests to be permitted to use a function, a user judgment unit receives second biological information and judges whether or not first biological information and the received second biological information correspond to the same user. Applicants respectfully submit that the Examiner has not sufficiently demonstrated that the above combination of Ono and Shinzaki renders claim 4 *prima facie* obvious for the following reasons.

MPEP 2143.01(vi) states that if a proposed modification or combination of a primary and secondary reference would change the principle of operation of the primary reference, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.

As noted above, Ono discloses an authentication apparatus for authenticating a correct user using and IC card and IC tags carried by the user (Abstract). Ono discloses that if only an IC card is used, an incorrect user may steal the IC card and impersonate the correct user to gain access to a system ([0005]). Ono discloses a password may be used by the system to prevent the incorrect user from obtaining access in the event the IC card is stolen; however, the correct user would have the burden of memorizing the password ([0006]). Therefore, Ono discloses that it is an object of the authentication apparatus of Ono to solve the above problems, i.e. the authentication apparatus of Ono has a **principle operation** to provide a secure authentication apparatus allowing a correct user to access the system **without using a password** as a password would be a burden to the user ([0007]).

In contrast to Ono, Applicants note that Shinzaki **uses a password** to authenticate a user as a secondary method of authentication in the event the user cannot be authenticated by biometic feature information (FIG. 7). However, by modifying Ono with the password feature of Shinzaki, the combination would change the principle operation of the Ono reference unsatisfactory, i.e., by modifying Ono to authenticate a user with a password, it defeats Ono's

intended purpose of not using a password in authentication. Therefore, Applicants respectfully submit that the Examiner has not sufficiently demonstrated that the above combination of Ono and Shinzaki renders claim 4 *prima facie* obvious.

In view of the foregoing, Applicants respectfully submit that claim 4 is patentable over any combination of Ono and Shinzaki.

Claims 5, 8, 13, and 16 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ono in view of Ogawa (U.S. Patent Application Publication No. 2005/0027990). Applicants respectfully request reconsideration of the rejection based on the following remarks.

Applicants respectfully submit that Ogawa fails to provide disclosure that would obviate the above-mentioned deficiencies of Ono and Shinzaki. Therefore, Applicants respectfully submit that claims 5, 8, 13, and 16 are patentable over any combination of Ono, Shinzaki, and Ogawa based at least on their dependency from claim 2.

Claims 6, 9, 11, and 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ono in view of Ogawa, and in further view of Shinzaki. Applicants respectfully request reconsideration of the rejection based on the following remarks.

Applicants respectfully submit that Ogawa fails to provide disclosure that would obviate the above-mentioned deficiencies of Ono and Shinzaki. Therefore, Applicants respectfully submit that claims 6, 9, 11, and 14 are patentable over any combination of Ono, Shinzaki, and Ogawa based at least on their dependency from claim 2.

Additionally, claim 9 recites, in part, a priority level storage unit operable to store a plurality of priority levels with a plurality of type codes corresponding thereto, each of the plurality of priority levels indicating a recording priority with which the corresponding type code is recorded in an authentication recording medium. Applicants respectfully submit that this feature of claim 9 is not disclosed or suggested by any combination of Ono, Shinzaki, and Ogawa.

Applicants respectfully submit that neither Shinzaki nor Ogawa disclose or suggest the priority level storage unit as recited in claim 9; therefore, Ono must disclose or suggest the priority level storage unit as recited in claim 9 for any combination of Ono, Shinzaki, and Ogawa to render claim 9 obvious. Applicants respectfully submit that Ono does not disclose or suggest the priority level storage unit as recited in claim 9 for the following reasons.

Ono discloses the use of weight coefficients for the authentication information; however, the weight coefficients are decided upon the probability that the correct user is carrying the articles having the IC tags ([0041]). In other words, the weighted coefficients correspond to a **probability** a user is carrying the object having the IC tag.

In contrast to Ono, claim 9 recites a plurality of priority levels indicating a **recording priority** with which the corresponding type code is recorded in an authentication recording medium. Therefore, Applicants respectfully submit that Ono fails to disclose or suggest the priority level storage unit as recited by claim 9.

In view of the foregoing, Applicants respectfully submit that claim 9 is patentable over any combination of Ono, Shinzaki, and Ogawa.

Claims 7 and 15 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ono in view of Ogawa, and in further view of Nakajima et al. (U.S. Patent Application Publication No. 2002/0108062, hereafter "Nakajima"). Applicants respectfully request reconsideration of the rejection based on the following remarks.

Applicants respectfully submit that Ogawa and Nakajima fail to provide disclosure that would obviate the above mentioned deficiencies of Ono and Shinzaki. Therefore, Applicants respectfully submit that claims 7 and 15 are patentable over any combination of Ono, Ogawa, Shinzaki, and Nakajima based at least on their dependency from claim 2.

Additionally, claims 7 and 15 recite, in part, a distance calculating unit operable to measure values of a response time during communication between an authentication apparatus and wireless IC tags attached to objects, and calculate values of a distance between the authentication apparatus and each of the wireless IC tags attached to the objects based on the measured values of the response time. Applicants respectfully submit that this feature of claims 7 and 15 is not disclosed or suggested by any combination of Ono, Ogawa, Shinzaki, and Nakajima.

Applicants respectfully submit that neither Ono, Ogawa, nor Shinzaki disclose or suggest the distance calculating unit as recited in claims 7 and 15; therefore, Nakajima must disclose the distance calculating unit as recited in claims 7 and 15 for any combination of Ono, Ogawa, Shinzaki, and Nakajima to render claims 7 and 15 obvious. Applicants respectfully submit that Nakajima does not disclose or suggest the distance calculating unit as recited in claims 7 and 15 for the following reasons.

Applicants note that Nakajima discloses an authentication system using a mobile station, such as a cellular telephone, for authenticating a user's identify when the user attempts to use credit, such as when a user attempts to use a credit card at a CAT terminal in a store ([0053]). Nakajima discloses comparing the location of the mobile station and the location of the CAT terminal in the store as a method of determining the validity of the attempted credit transaction ([0055]-[0056]). In other words, Nakajima authenticates a transaction based on the **detected locations** of a cellular telephone of a user and the store.

Contrast the authentication method as Nakajima to that of claims 7 and 15 in which a distance calculating unit is operable to **measure values of a response time** during communication between an authentication apparatus and wireless IC tags attached to objects, and calculate values of a distance between the authentication apparatus and each of the wireless IC tags attached to the objects based on the measured values of the response time. Therefore, Applicants respectfully submit that Nakajima fails to disclose or suggest the distance calculating unit as recited by claims 7 and 15.

Therefore, Applicants respectfully submit that claims 7 and 15 are patentable over any combination of Ono, Ogawa, Shinzaki, and Nakajima.

Claims 10 and 12 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ono in view of Ogawa and Shinzaki, and in further view of Omae et al. (U.S. Patent Application Publication No. 2006/0174121, hereafter "Omae"). Applicants respectfully request reconsideration of the rejection based on the following remarks.

Applicants respectfully submit that Ogawa and Omae fail to provide disclosure that would obviate the above mentioned deficiencies of Ono and Shinzaki. Therefore, Applicants respectfully submit that claims 10 and 12 are patentable over any combination of Ono, Ogawa, Shinzaki, and Omae based at least on their dependency from claim 2.

Additionally, claim 10 recites, in part, a priority level update unit operable to receive a type code and a priority level, and update a priority level storage unit by replacing a priority level, which is stored in the priority level storage unit in correspondence with the received type code, with the received priority level. Applicants respectfully submit that this feature of claim 10 is not disclosed or suggested by any combination of Ono, Ogawa, Shinzaki, and Omae.

As noted above with respect to claim 9, Applicants respectfully submit that any combination of Ono, Ogawa, and Shinzaki fails to disclose the priority level storage unit as recited in claim 9. Additionally, Applicants respectfully submit that Omae fails to disclose or suggest the priority level storage unit as recited in claim 9.

Applicants note that the priority level update unit as recited by claim 10 updates the priority level storage unit as recited in claim 9. Therefore, because Ono, Ogawa, Shinzaki and Omae each fail to disclose or suggest the priority level storage unit as recited by claim 9, the priority level update unit as recited by claim 10 is patentable over any combination of Ono, Ogawa, Shinzaki, and Omae.

Claim 18 was rejected under 35 U.S.C. 103(a) as being unpatentable over Ono in view of Zhang (U.S. Patent Application No. 2004/0064698). Applicants respectfully request reconsideration of the rejection based on the following remarks.

Applicants respectfully submit that Zhang fails to provide disclosure that would obviate the above mentioned deficiencies of Ono and Shinzaki. Therefore, Applicants respectfully submit that claim 18 is patentable over any combination of Ono and Zhang based at least on its dependency from claim 2.

Claims 23 and 24 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ono. Claim 24 is pending, and claim 23 has been cancelled. Applicants respectfully request reconsideration of the rejection based on the following remarks.

Initially, Applicants note that the subject matter of original claim 3 has been incorporated into claim 24. Original claim 3 was rejected under 35 U.S.C. 103(a) as being unpatentable over Ono in view of Shinzaki. Therefore, in order to expedite prosecution of the present application, Applicants respectfully submit that claim 24 is patentable over any combination of Ono and Shinzaki.

Applicants note that claims 24 recites, in part, receiving, if a level of match judging step judges that a level of match does not satisfy a predetermined condition, second identification information and judging whether or not first identification information matches the received second information, and permitting a use of a function if the level of match judging step judges that the level of match satisfies the predetermined condition, or permitting the use of the function if the level of match judging step judges that the level of match does not satisfy the predetermined condition and the identification information judging step judges that the first identification information matches the received second identification information. Therefore, Applicants respectfully submit that claim 24 is patentable over any combination of Ono and Shinzaki for reasons similar to those discussed above with respect to claim 1.

Regarding new claim 25, Applicants note that the subject matter of new claim 25 was originally part of original claim 4. Original claim 4 was rejected under 35 U.S.C. 103(a) as being unpatentable over Ono in view of Shinzaki. Therefore, in order to expedite prosecution of the present application, Applicants respectfully submit that claim 25 is patentable over any combination of Ono and Shinzaki.

Applicants note that new claim 25 depends from claim 2. Therefore, Applicants respectfully submit that new claim 25 is patentable over any combination of Ono and Shinzaki based at least on its dependency from claim 2.

Additionally, claim 25 recites, in part, that if a tag judgment unit judges that a level of match does not satisfy a predetermined condition, and a user requests to be permitted to use a function, a user judgment unit receives second character information and judges whether or not first character information and the received second character information correspond to the same user. Applicants respectfully submit that the above combination of Ono and Shinzaki cannot render claim 25 *prima facie* obvious for the following reasons.

MPEP 2143.01(vi) states that if a proposed modification or combination of a primary and secondary reference would change the principle of operation of the primary reference, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.

As noted above, Ono discloses an authentication apparatus for authenticating a correct user using and IC card and IC tags carried by the user (Abstract). Ono discloses that if only an IC card is used, an incorrect user may steal the IC card and impersonate the correct user to gain access to a system ([0005]). Ono discloses a password may be used by the system to prevent the incorrect user from obtaining access in the event the IC card is stolen; however, the correct user would have the burden of memorizing the password ([0006]). Therefore, Ono discloses that it is an object of the authentication apparatus of Ono to solve the above problems, i.e. the authentication apparatus of Ono has a **principle operation** to provide a secure authentication apparatus allowing a correct user to access the system **without using a password** as a password would be a burden to the user ([0007]).

In contrast to Ono, Applicants note that Shinzaki **uses a password** to authenticate a user as a secondary method of authentication in the event the user cannot be authenticated by biometic feature information (FIG. 7). However, by modifying Ono with the password feature of Shinzaki, the combination would change the principle operation of the Ono reference unsatisfactory, i.e., by modifying Ono to authenticate a user with a password, it defeats Ono's intended purpose of not using a password in authentication. Therefore, Applicants respectfully submit that the above combination of Ono and Shinzaki cannot render claim 25 *prima facie* obvious.

In view of the foregoing, Applicants respectfully submit that claim 25 is patentable over any combination of Ono and Shinzaki.

Therefore, for at least the reasons presented above, Applicants respectfully submit that independent claims 1, 2, 22, and 24, as well as the claims depending therefrom, are clearly allowable over the prior art of record.

In view of the foregoing amendments and remarks, Applicants respectfully submit that the present application is clearly in condition for allowance. An early notice thereof is earnestly solicited.

If, after reviewing this Amendment, the Examiner feels there are any issues remaining with must be resolved before the application can be passed to issue, Applicants respectfully request that the Examiner contact the undersigned by telephone in order to resolve such issues.

Respectfully submitted,

Kaoru YOKOTA et al.

/Stephen W. Kopchik/
2009.11.09 16:54:28 -05'00'

By _____
Stephen W. Kopchik
Registration No. 61,215
Attorney for Applicants

SWK/KWF/clw
Washington, D.C. 20005-1503
Telephone (202) 721-8200
Facsimile (202) 721-8250
November 9, 2009